



STATE OF NEW JERSEY

Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION FOR)
AN ORDER AUTHORIZING UNIVERSAL)
ACCESS, INC. TO PROVIDE LOCAL)
EXCHANGE TELECOMMUNICATIONS)
SERVICES THROUGHOUT NEW JERSEY)

ORDER OF APPROVAL

DOCKET NO. TE99120950

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated December 16, 1999, Universal Access, Inc. (Petitioner or UAI) filed a petition with the Board of Public Utilities (Board) requesting authority to provide local exchange services throughout the State of New Jersey. In addition, UAI responded to a Staff questionnaire by letter dated October 27, 2000 and to Staff interrogatories by letter dated January 10, 2001.

BACKGROUND

According to the petition, Petitioner was incorporated under the laws of the State of Delaware on June 24, 1999. Petitioner's principal offices are located at 233 South Wacker Drive, Suite 600, Chicago, Illinois 60606. Petition at 2.

Petitioner submitted copies of its Articles of Incorporation, Delaware Certificate of Good Standing and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. May 26, 2000 Letter, January 10, 2000 Letter, Exhibit A. According to the petition, UAI was formed to provide local exchange services. Petition at 1. Petitioner advised that UAI is currently certified to provide facilities-based and resold local exchange and interexchange telecommunications service in Alabama, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New York, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming. UAI has not been denied authority to provide telecommunications services in any state. January 10, 2001 Letter. In addition, UAI has no pending civil, criminal or administrative actions against it. UAI advised that it is not currently negotiating any interconnection agreements.

In its petition, Petitioner advised that it seeks authority to provide local exchange telecommunications services to business and high capacity residential customers throughout New Jersey. UAI proposes to offer basic telephone exchange services, access services and features, including, but not limited to, call waiting, call forwarding, speed dialing, distinctive ringing and three-

way calling to both its business and residential customers. In addition, it plans to provide private line, Centrex and Digital Subscriber Line services. UAI will combine resale, the leasing of local loops from others, use of their own switching and Unbundled Network Elements (UNEs) in providing these services. Petition at 3, 5.

Petitioner requested waivers of N.J.A.C. 14:1-4.3, and 14:1-5.15, which require that its books and records be maintained in accordance with the Uniform System of Accounts (USOA) and within the State of New Jersey. Petitioner requested permission, in the interest of efficiency and to prevent undue burden, to maintain its books and records in accordance with Generally Accepted Accounting Principles (GAAP). Petition at 6. Petitioner also requests permission to keep all books, records, documents and other writings incident to the conduct of business of Petitioner in the State of New Jersey at Petitioner's corporate offices in Chicago, Illinois. January 10, 2001 Letter, Exhibit D. Petitioner also stated that, upon written notice from the Board, it will produce its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records. January 10, 2001 Letter, Exhibit D.

Petitioner asserted that approval of its petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petition at 6. Petitioner also asserted that approval of this petition will bring the benefits of full competition to all New Jersey customers, including an enhanced range of telecommunications services and an increase in customers choices. Petition at 6.

With regard to its technical and managerial qualifications, UAI stated that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petition at 4. Petitioner submitted the professional biographies of its key personnel who, according to UAI, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry. Petition at 4, Exhibit B.

Petitioner has submitted pro forma financial statements for 2000 through 2005 for its North American region as evidence of sufficient financing and will need to provide pro forma financial information specifically regarding New Jersey prior to approval of its tariff.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. § 151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey

State Legislature's decision that it is the policy of the state to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed UAI's petition and the information supplied in support thereof, the Board FINDS that Petitioner has demonstrated that it possesses the requisite financial, technical and managerial resources, which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES Petitioner to provide local exchange telecommunications services in New Jersey subject to approval of its tariff and submission of New Jersey pro forma financial information. The Board notes that Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board and the required financial statements have been provided.

Regarding the Petitioner's request for waivers of Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements for Petitioner to maintain its books and records under the USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board access to its books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES Petitioner's request for the exemptions from maintaining its books and records in New Jersey and under the USOA.

DATED: 6/28/01

BOARD OF PUBLIC UTILITIES
BY:

(signed)
CAROL J. MURPHY
ACTING PRESIDENT

(signed)
FREDERICK F. BUTLER
COMMISSIONER

ATTEST:

(signed)
FRANCES L. SMITH
BOARD SECRETARY